

1 MR. ZAUNER: We have no objection.

2 JUDGE STEINBERG: Forty-nine is received.

3 (Whereupon, the document referred to
4 as NAACP Exhibit No. 49 was received
5 into evidence.)

6 MR. HONIG: Fifty -- skipping fifty, fifty-one is
7 the next one. And 51 is offered.

8 MS. SCHMELTZER: Your Honor, with respect to the
9 remainder of the exhibits that Mr. Honig said that he wanted
10 to introduce through this witness, these are drafts of
11 pleadings that have been -- I don't see I mean unless Mr.
12 Honig can establish that there is something in here that
13 should come in, I don't think just the mere fact that they're
14 drafts proves that they're relevant in the record.

15 JUDGE STEINBERG: Okay. We're talking specifically
16 about Exhibits 51, 52, 53, 54, 55, 56 and 59?

17 MS. SCHMELTZER: That's correct.

18 MR. HONIG: Can I take them one at a time, Your
19 Honor?

20 JUDGE STEINBERG: Let me, let me just ask is there
21 information in these exhibits which does not appear in
22 pleadings or other filings with the Commission?

23 MS. SCHMELTZER: In fact, one part of 55 is, is
24 already in evidence in the Bureau's exhibits --

25 JUDGE STEINBERG: Well, let's do them one at a time

1 I think rather than --

2 MR. HONIG: Fifty-one I don't think is in evidence
3 anywhere else in, in, at least in this form. This is a list
4 sent by Mr. Stortz to Marcia Cranberg of each applicant and,
5 and -- or rather each, each hire and the records as to
6 applicants, who the, how the station recruited for them and
7 when they were hired laid out by year.

8 MS. SCHMELTZER: Your Honor, this is simply a draft
9 of the opposition pleading that was filed in February 1990.
10 And just the mere fact that it's draft does not mean that it's
11 relevant to the record --

12 JUDGE STEINBERG: What I want to know is does it --
13 let me hear what Mr. Zauner has to say.

14 MR. ZAUNER: One second, Your Honor.

15 JUDGE STEINBERG: And --

16 MS. SCHMELTZER: I think it's a draft of table --
17 (Asides.)

18 MR. HONIG: A draft of table 3 and --
19 (Asides.)

20 JUDGE STEINBERG: Let's go off.
21 (Off the record. Back on the record.)

22 JUDGE STEINBERG: We're talking about 51.

23 MR. HONIG: Fifty-one appears to be similar to table
24 3 for 86 through 89 as it's contained in tab 7 of this
25 witness's testimony. However, the material for 83 to 86 is,

1 is in Exhibit, NAACP Exhibit 51 but does not appear to be in
2 tab 7.

3 And there appear to be differences in the wording
4 and, of many of the entries between this draft and the
5 pleading, and it appears that in some cases there's a little
6 more detail in the draft than in the pleading. So I think
7 that both of them are, are relevant. One is offered already,
8 and therefore I think the more detailed original version ought
9 to be in the record also.

10 JUDGE STEINBERG: Okay, Mr. Zauner.

11 MR. ZAUNER: Your Honor, I disagree without some
12 more showing of relevance. It, it seems to me that the, the
13 significant difference is that the tab 7 information was
14 provided to the Commission by cover letter dated February 26,
15 1990. And this information was, was just a draft from which
16 apparently the final copy was drawn. There's no showing of
17 any significant differences between the, the two. This isn't
18 for impeachment purposes. And the, the draft may or may not
19 be accurate, but we're not concerned with that. What we're
20 concerned with is what the, the stations told the Commission.
21 And so I think that while tab 7 is relevant and properly
22 received, this information offered by the NAACP is not.

23 MS. SCHMELTZER: And I concur with that, Your Honor.

24 MR. HONIG: May I, Your Honor? You certainly want
25 to be sure that what the station put on its letterhead and

1 sent to its lawyer is the same thing that was sent to the
2 Commission --

3 JUDGE STEINBERG: Okay, I'll tell you what.

4 MR. HONIG: -- and they're different. They're --

5 JUDGE STEINBERG: Tell you what.

6 MR. ZAUNER: They're --

7 JUDGE STEINBERG: I'll tell you what. What I'm
8 going to do is at this juncture I'm going to reject 51. But
9 you can go through it. And if you see a discrepancy between
10 what was in tab 7 and what's in here, you can bring it to my
11 attention. And if I consider it relevant, then I might accept
12 that, that portion. But we're not going to do that today.

13 MR. HONIG: Do you want me to -- through the witness
14 though? Or do you want me to just bring it to your attention?

15 MS. SCHMELTZER: No. Through the witness obviously.

16 MR. HONIG: But that means --

17 JUDGE STEINBERG: Do you know what the discrepancies
18 are right now?

19 MR. HONIG: I see some. But I would want to take it
20 home and we're going to -- or if we go on a break.

21 JUDGE STEINBERG: Well, the witness is -- I mean --

22 MS. SCHMELTZER: Your Honor, this is something that
23 Mr. Honig should have been prepared for. He's had these
24 documents for a long time.

25 MR. HONIG: Well, forgive me. There's 6,000 or so

1 documents and --

2 JUDGE STEINBERG: Okay, let's for now 51 is
3 rejected. Excuse me. Yeah.

4 (Whereupon, the document referred to
5 as NAACP Exhibit No. 51 was rejected
6 as evidence.)

7 MR. HONIG: With the understanding that I can, I can
8 re-offer it if I show discrepancies?

9 JUDGE STEINBERG: If there's a comma here, if
10 there's a comma after a word in 51, and the comma doesn't
11 appear in tab 7, who cares?

12 MR. HONIG: Well, now 83 through 86 is only in here
13 and not in what -- because the Commission didn't ask for 83 to
14 86. So at least as to pages --

15 MR. GOTTFRIED: Your Honor, that makes it classic
16 hearsay. I don't know what it's offered for, the truth of
17 what it says in those three pages?

18 MR. HONIG: You've got a fax --

19 MR. GOTTFRIED: We have no, we have no witness who
20 says he wrote it or what it --

21 JUDGE STEINBERG: Well, we have a cover sheet from
22 Marcia Cranberg, I mean, you know, name to Marcia Cranberg
23 from Mr. Stortz and --

24 MS. SCHMELTZER: This is beyond -- the 83 to 86
25 information that was in this draft is far beyond the issues

1 that we're designating in this proceeding. The Commission did
2 not ask for that information --

3 JUDGE STEINBERG: Well, you have my ruling. Let's
4 get to 52. I'm not -- we're not going to argue this ad
5 infinitum, ad nauseam.

6 MR. HONIG: Where are we? Fifty-two is offered.

7 MS. SCHMELTZER: We have the same objections to 52,
8 Your Honor. It's just a draft.

9 MR. HONIG: Your Honor, you can -- in discovery I
10 think counsel will agree that it came out that this was
11 written by Mr. Stortz, sent to Mrs. Cranberg, and thus it
12 represents Mr. Stortz's own impressions of the facts more
13 accurately than would those impressions after they've been
14 instilled by counsel into a pleading.

15 MS. SCHMELTZER: Mr. Honig has not shown --

16 MR. ZAUNER: Your Honor, Your Honor, that's why we
17 have --

18 MS. SCHMELTZER: -- any difference between this
19 draft and the pleading that would be material.

20 MR. ZAUNER: Moreover, that's why we have the
21 witness here live so that he can give his impressions and, and
22 answer these kinds of questions. I would have no objection
23 to, to Mr. Honig using this document for example to attempt
24 to --

25 JUDGE STEINBERG: Impeach the witness.

1 MR. ZAUNER: -- impeach the witness. But to put it
2 in without such a relevancy basis, I would object.

3 JUDGE STEINBERG: Now what -- where does this appear
4 in the pleadings? And forgive me for not being intimately and
5 thoroughly familiar with everything you said in your
6 pleadings.

7 MS. SCHMELTZER: I believe this is related to a
8 pleading, the letter or pleading from May 12, 1992 or on, on
9 or about that date.

10 JUDGE STEINBERG: Would that be in the Bureau's
11 case?

12 MR. GOTTFRIED: No. 6 -- no. 6.

13 MS. LADEN: That's correct.

14 (Asides. Pause.)

15 MR. ZAUNER: I'll -- if you want to, if you want to
16 use this for cross-examination purposes to try to impeach the
17 witness's testimony, fine. And then you can offer it then.
18 But as of this -- as of now, you haven't established a basis
19 for receiving this.

20 MR. HONIG: So there's no ruling as yet then.

21 JUDGE STEINBERG: I guess.

22 MR. HONIG: Okay.

23 JUDGE STEINBERG: If you, if you're going to use it,
24 use it.

25 MR. HONIG: I'll, I'll use it then.

1 JUDGE STEINBERG: I mean is this different from what
2 was stated in Mass Media Bureau 6 in, in significant respect?

3 MR. HONIG: It's different --

4 JUDGE STEINBERG: Well, yeah, it's different,
5 because the words are a little different, and the layout is a
6 little different. And -- I'm concerned about the substance.
7 Exhibit 6 looks like it contains a little more than exhibit,
8 than the material in 52.

9 MR. HONIG: All right. Exhibit 53 is offered --

10 JUDGE STEINBERG: Are we going to have this problem
11 with all the rest of these exhibits? With 53, 4, 5, 6 and 9?

12 MS. SCHMELTZER: Yeah, I have same objection.

13 JUDGE STEINBERG: Because they're -- if we --

14 MR. HONIG: They'll be offered for different, for
15 more limited reasons and will be easier.

16 MS. SCHMELTZER: Fifty-three, fifty-four, fifty-
17 five --

18 JUDGE STEINBERG: I mean because if we're going to
19 have to go through this exercise with respect to each of these
20 exhibits, it's kind of a waste of time. And I would suggest
21 you continue with your cross-examination. Use these exhibits
22 in the way you believe they ought to be used in cross-
23 examination, and then offer them after you finish using them.

24 MR. HONIG: Well, these are -- some of these are
25 offered for much more limited purposes.

1 JUDGE STEINBERG: Okay, do the, do the real limited
2 ones.

3 MR. HONIG: All right. Fifty-four is offered
4 inasmuch as this is an exchange between Mr. Stortz and Mr.
5 Miller, and Mr. Miller had testimony regarding the extent to
6 which he was involved at this time. And these -- and 54 shows
7 that there was in fact direct communication between Mr. Stortz
8 and Mr. Miller as late as May 1992 on, on substantive matters.

9 MS. SCHMELTZER: Your Honor, that doesn't -- this
10 letter does not show that. All it shows is that Dennis Stortz
11 sent a draft to Reed Miller.

12 MR. HONIG: No --

13 MS. SCHMELTZER: It doesn't show that they had any
14 kind of lengthy discussion. And, and I -- and Mr. Honig has
15 not told us how this is relevant in any event. And he didn't
16 show this letter to Reed Miller.

17 MR. HONIG: One of the questions was -- I wasn't
18 required to show it to him. One of the questions was and --
19 was whether the extent to which Mr. Miller, the senior person
20 in the firm, was involved or had knowledge and was consulted
21 during this time. I asked Mr. Miller about that. And if you
22 look at the -- at page 1 of this Exhibit 54, it shows that
23 this has all the accoutrements of personal exchange. Dear
24 Reed, please alert, please alert me with any changes at the
25 request of particular person. I will also include an

1 affidavit with the final version. We overnight to you.

2 Thanks for your help. That's not a blind letter.

3 JUDGE STEINBERG: Okay --

4 MS. SCHMELTZER: But there's no evidence that Reed
5 Miller saw this letter or responded. You know, I think he's
6 trying to impeach Reed Miller on a totally collateral --

7 JUDGE STEINBERG: Well, well, let me, let me -- I
8 think -- I don't want to hear about any more of the exhibits.
9 My -- since only the remaining exhibits that we're talking
10 about seem to be of this nature, continue with your cross-
11 examination. And use, use the exhibits the way you see fit.
12 And then when you're finished using them, offer them, and I'll
13 make rulings.

14 I'm particularly disturbed about anything having to
15 do with Reed Miller. Because and I'll -- I don't think this
16 is on the record anywhere. It might be on the record of the
17 Reed Miller deposition. I haven't read it. It hasn't been
18 offered. So I don't know. But the -- I think it was the day
19 before Reed Miller's deposition, his deposition was June 14th,
20 correct?

21 MR. HONIG: Yes.

22 JUDGE STEINBERG: Tuesday. On that Monday, I think
23 it was the Monday, I called counsel, I called Mr. Honig, I
24 called Mr. Zauner, I called Mrs. Schmeltzer, and I called Reed
25 Miller's attorney whose name escapes me for now.

1 MS. SCHMELTZER: Phil Horton.

2 JUDGE STEINBERG: Phil Horton. Individually. And I
3 said to them that I want Reed Miller's deposition to be taken
4 for two purposes. Number one, discovery. Number two,
5 preservation of evidence. The man is ill. I don't want to
6 make him come to the hearing unnecessarily. Is that -- did I
7 tell you that, Mrs. Schmeltzer?

8 MS. SCHMELTZER: Yes, that's right.

9 MR. HONIG: That's right.

10 JUDGE STEINBERG: Mr. Honig?

11 MR. HONIG: That's right.

12 MR. ZAUNER: Yes.

13 JUDGE STEINBERG: Mr. Zauner? And I told Mr.
14 Horton. The fact that we have in the record or the fact that
15 we have a document, Exhibit 54, that concerns -- I'm going to
16 say it concerns Reed Miller. Doesn't -- it wasn't written by
17 him, but it concerns him. And now it's being -- the attempt
18 is being made to use this document to show that Reed Miller
19 was more involved than he says he was which is the way I heard
20 he --

21 MR. HONIG: And that's correct. That's --

22 JUDGE STEINBERG: Without giving Mr. Miller an
23 opportunity to respond to this I, I kind of think that that --

24 MR. HONIG: Can I tell you why I did it that way,
25 Judge?

1 JUDGE STEINBERG: Well, no. I, I don't care why you
2 did it this way. The fact that you're trying to do it this
3 way disturbs me. Because I don't want to have Mr. Miller come
4 here and, and -- I mean if you, if you maintain that Mr.
5 Miller had involvement in this when he says he -- if you try
6 to impeach Mr. Miller, they're going to bring him in in
7 surrebuttal and put this man on the stand which is what we
8 tried to avoid.

9 MR. HONIG: Judge, if you're disturbed I think I
10 should be permitted an opportunity to explain why I did it
11 this way.

12 JUDGE STEINBERG: Well, I, I think that the record
13 is filled with explanations. And let's just get on with the
14 cross-examination.

15 MR. HONIG: I, I really think I should be permitted
16 an opportunity --

17 JUDGE STEINBERG: Okay. Can you do it in a minute?

18 MR. HONIG: I can do it in half a minute.

19 JUDGE STEINBERG: Okay.

20 MR. HONIG: I only had 1 hour to depose Mr. Miller.

21 I, I --

22 JUDGE STEINBERG: Wait a minute. Did anybody tell
23 you that you couldn't take more than an hour?

24 MR. HONIG: I promised to take an hour. That was
25 part of what we worked out to get it done.

1 JUDGE STEINBERG: Okay. Did anybody -- did I
2 restrict you to an hour?

3 MR. HONIG: I felt that because I had been given --

4 JUDGE STEINBERG: No, that wasn't the question. Did
5 I restrict -- did I say you may take his deposition but only
6 if it lasts an hour?

7 MR. HONIG: No.

8 JUDGE STEINBERG: Okay. Did --

9 MS. SCHMELTZER: Actually it took 50 minutes.

10 JUDGE STEINBERG: It -- okay. It took 50 minutes.
11 Did I say to you on the telephone, and I said this to the
12 other people, that I would be in my office that morning. The
13 deposition started at 10:30. Am I correct?

14 MR. HONIG: Yes.

15 JUDGE STEINBERG: And that I would be in my office
16 by the phone, and I would be available for rulings throughout
17 the Reed Miller, Reed Miller deposition.

18 MR. HONIG: Yes.

19 JUDGE STEINBERG: I didn't say I'd be there for an
20 hour. And didn't I ask to be called when Reed Miller's
21 deposition was over so that I could go to lunch?

22 MR. HONIG: Yes.

23 JUDGE STEINBERG: And didn't you call me to tell me?

24 MR. HONIG: I did.

25 JUDGE STEINBERG: So why -- what makes you think

1 that you only had an hour for Reed Miller?

2 MR. HONIG: Because I promised, and I was trying to
3 keep my word. And I felt that these documents if I -- were
4 written between Reed Miller and someone else who was going to
5 be a witness they could have been authenticated by the someone
6 else. I didn't need to do it through him. Because the, the
7 other person was going to be here anyway.

8 JUDGE STEINBERG: Well, okay.

9 MR. HONIG: -- to authenticate things that just he
10 wrote.

11 JUDGE STEINBERG: Okay. Let's, let's proceed please
12 with your cross-examination. And then we'll revisit these
13 remaining documents.

14 MR. HONIG: Are there other ones --

15 JUDGE STEINBERG: We had --

16 MR. HONIG: -- that are easy?

17 MS. SCHMELTZER: Those are the only ones that you --

18 JUDGE STEINBERG: And you, you -- Mrs. Schmeltzer,
19 you had problems with 52 through 56 and 59.

20 MS. SCHMELTZER: And -- that's correct.

21 JUDGE STEINBERG: Okay. And that's the only ones
22 that, that are left.

23 MR. HONIG: And 59?

24 JUDGE STEINBERG: Yeah.

25 MR. HONIG: Okay. Well it's going to make it take a

1 little, little longer than I thought then, Your Honor. But
2 I --

3 JUDGE STEINBERG: Well --

4 MR. HONIG: -- run through --

5 JUDGE STEINBERG: Be here until we, until we're not
6 here. That's all. We -- if we have to come back and finish
7 up next week, we'll come back and finish up next week.

8 MR. HONIG: Well, I do appreciate that I'm not being
9 put under time pressure. I appreciate that a lot.

10 JUDGE STEINBERG: Well, yet.

11 MR. HONIG: Okay, yet. You did block off a few days
12 that I'll -- let me pick up where we were then.

13 JUDGE STEINBERG: I'll tell you what they do at some
14 other agencies that I'm familiar with. They basically say you
15 got an hour to cross-examine. That's it. Period. And then
16 you're finished. And you know what effect that has? The
17 questions really get sharp and to the point. Because when the
18 1 hour is finished, the judge says you're finished. Now we
19 haven't done that at the FCC, and I don't like to do that.
20 But -- well, I'd say -- but some other judges have done that.

21 MS. SCHMELTZER: There are, there are some judges
22 who have done that, Your Honor.

23 JUDGE STEINBERG: And I don't want to do it if, if I
24 don't have to. And --

25 MR. HONIG: Well --

1 JUDGE STEINBERG: -- but anyway. That's always
2 within my authority. Anybody need a break?

3 MR. HONIG: Actually, yeah, it's, it's almost 10
4 minutes to 4. How long were you going to go today?

5 JUDGE STEINBERG: I don't know. Until people got
6 real testy.

7 MR. HONIG: I'm, I'm not testy, Judge. But I've
8 been up all night. And I'm a little flat.

9 JUDGE STEINBERG: Well, there's nothing I can do
10 about your being up all night.

11 MR. HONIG: I know. I know.

12 JUDGE STEINBERG: And --

13 MR. HONIG: What I was going to suggest was why
14 don't I finish this line of questions which will be over about
15 4 which is when, pretty much when we've been breaking anyway
16 and then break for the day.

17 JUDGE STEINBERG: I want to -- I would like to go --
18 I mean I -- it's -- I don't want to keep Mr. Stortz here or
19 anybody for a minute longer than they have to be here. And
20 I'm inclined to say let's just keep going until everybody runs
21 out of steam or it just gets too horrible to sit through. By
22 horrible I mean around 4, 4:15, everybody gets real mad with
23 each other. And then we start having the tremendous fights.
24 At which point I, I may exercise my judgment and say we'll
25 finish for the day. If that happens, I may. If that doesn't

1 | happen, we'll just keep going. Because I want, I want to get
2 | finished.

3 | MR. HONIG: I, I understand, Judge. It's just --

4 | JUDGE STEINBERG: Okay. So just let's keep going.

5 | MS. SCHMELTZER: We do too. I just have one more
6 | question. That is the Reverend Clancy did arrive at noon
7 | today, before noon today. I would like to put him on first
8 | thing tomorrow morning --

9 | JUDGE STEINBERG: Let's see where we stand at the
10 | end of the day.

11 | MR. HONIG: As I was going to say since we're --
12 | since it looks like it's likely that if he's going to go on
13 | tomorrow morning we're not going to finish Mr. Stortz today
14 | and we'll have to interrupt anyway --

15 | JUDGE STEINBERG: Well --

16 | MR. HONIG: -- why don't we do Reverend Clancy now?
17 | Then we can go home.

18 | JUDGE STEINBERG: I don't want to do Reverend Clancy
19 | now. Let's do -- Mr. Stortz is here. Please continue with
20 | Mr. Stortz. I mean if at all possible, I would like to break
21 | when you finish your cross-examination. That would be a
22 | superb point to break for the evening. And then we can, we
23 | can start with Reverend Clancy tomorrow and then, and then Mr.
24 | Stortz and the Bureau's cross.

25 | MR. HONIG: My, my --

1 JUDGE STEINBERG: So I think let's just continue.

2 MR. HONIG: My point is that there are a couple of
3 exhibits that I'm now going to have to go through to identify
4 particular discrepancies. That's a task that's going to take
5 me at least an hour.

6 JUDGE STEINBERG: Well, start. Because the, the
7 sooner you start, the sooner you finish.

8 MR. HONIG: Mr. Stortz, maybe the easiest way to do
9 it is this. In, in preparing for this case you, you reviewed,
10 did you not, various letters from Arnold & Porter written to
11 you specifically. Did you not?

12 WITNESS: Yes.

13 MR. HONIG: Now is it correct that there weren't any
14 particular steps that you took in response to any of those
15 letters?

16 MS. SCHMELTZER: Are you referring to a specific
17 letter?

18 MR. HONIG: I'm referring to each of the letters in
19 the, in the record that are addressed from Arnold & Porter to
20 Dennis Stortz.

21 WITNESS: Well, first of all, we should note that I
22 was on their mailing list as their contact person. But I was
23 not general manager for much of that time. So I always passed
24 the, the letter along to the general manager of the station.

25 BY MR. HONIG:

1 Q Other than passing some of the letters along, was
2 there any other steps that you took?

3 A And these are the letters that have been talked
4 about today?

5 Q Today and previously addressed and, and all of them
6 were gone over in your deposition as well where the, where you
7 are, individually are the addressee. And they're sent from
8 Arnold & Porter.

9 A Did I individually do anything about the letters.

10 Q Yes.

11 A Other than read them.

12 Q Yes.

13 A I don't recall, no.

14 Q Okay.

15 MR. ZAUNER: I'm sorry. What is the answer, that he
16 doesn't recall or --

17 WITNESS: I don't recall doing anything about the
18 letters.

19 JUDGE STEINBERG: Talking about the universe of
20 letters from Arnold & Porter.

21 (Pause.)

22 BY MR. HONIG:

23 Q If you would take a look at tab 12 of your
24 testimony. This will be quick. Do you know who prepared
25 this?

1 A I believe our legal counsel prepared this.

2 Q Do you know when?

3 A I'm not 100 percent sure when it was produced no,
4 and written.

5 Q Is -- would it be correct to say that this wasn't
6 written during the license term but it's, it's in fact a
7 recent document prepared for the purpose of litigation?

8 MS. SCHMELTZER: Objection. I don't see whether it
9 is relevant whether it was written during the license term or
10 whether it was prepared --

11 MR. HONIG: The relevance, Your Honor, is, is -- I'm
12 trying to narrow down whether this is a document that's
13 prepared just to assist the Court in reviewing information or
14 is it something that Mr. Stortz reviewed in evaluating the
15 station's EEO program.

16 JUDGE STEINBERG: Ask, ask that.

17 MR. ZAUNER: Ask him then.

18 MR. HONIG: All right. Which, which process?

19 MS. SCHMELTZER: We'll stipulate that it was
20 produced to assist the Court in reviewing the evidence in the
21 record, namely --

22 MR. HONIG: Stipulation accepted. Let's move on.
23 Now look at page 14 of your testimony, footnote 5.

24 WITNESS: Fourteen.

25 MR. HONIG: There you will see a reference that the

1 Broadcast Center is the only broadcast trade school in St.
2 Louis and was approximately 7 percent minority --

3 JUDGE STEINBERG: Wait, he hasn't got the, he hasn't
4 got the page.

5 MR. HONIG: Sorry.

6 JUDGE STEINBERG: Restate it again.

7 MR. HONIG: I'm sorry. Page 14, footnote --

8 JUDGE STEINBERG: This is --

9 MR. HONIG: -- 5 --

10 JUDGE STEINBERG: -- of the direct testimony.

11 WITNESS: Oh, sorry.

12 MR. HONIG: -- of the direct testimony.

13 JUDGE STEINBERG: Yeah.

14 WITNESS: Sorry.

15 MR. HONIG: Oh, I'm sorry.

16 JUDGE STEINBERG: Mr. Stortz was in, in one of the
17 tabs.

18 MR. HONIG: Okay. Mentally not physically.

19 JUDGE STEINBERG: That would make a good science
20 fiction program, lost among the tabs.

21 WITNESS: Okay, I got it.

22 JUDGE STEINBERG: Between a whole world of tabs.

23 BY MR. HONIG:

24 Q There, there you state the Broadcast Center is the
25 only broadcast trade school in St. Louis and was approximately

1 7 percent minority, 5 percent -- 5.9 percent black. What is
2 the source for those statistics?

3 (Pause.)

4 A I'm not 100 percent sure. I believe the same
5 statistics are used in one of the other, well, I'm not sure
6 what the date is, the February of 1990 opposition. And as I
7 recall it's -- we either called them or else it's out of this
8 book that this college book that lists what the enrollment of
9 schools are.

10 Q Do you know the date that these statistics would
11 have applied to?

12 A Yes. These statistics would have applied to
13 probably the year 1989. But I will update that by saying that
14 during a recent recruitment call to their recruitment person I
15 asked him what their statistics was, were now. And he
16 indicated that as far as I know they're about the same.

17 Q Okay. And when you say statistics, this is the
18 student body that this refers to and not the staff. Is that
19 right?

20 A Correct.

21 Q Okay. Now who -- just so we'll know, who, who runs
22 the Broadcast Center?

23 JUDGE STEINBERG: Today or during the license
24 term --

25 BY MR. HONIG:

1 Q During the license term. Thank you.

2 A I, I don't know.

3 (Pause.)

4 Q On page 15, paragraph 22, you state, "Because of
5 turnover in managerial personnel in the summer of 1989, the
6 EEO forms were not consistently used during the remainder of
7 that year." What is the turnover in management, in, in
8 managerial personnel, and I can't see or speak, that you're
9 referring to there?

10 A I believe it's Mr. Lauher that left in 1989. I can
11 double check that by looking at the chart.

12 Q Could you please?

13 A On, on tab 6. Well, no, I can't do that. Because
14 that just lists date of hire. It doesn't list when they left.

15 Q Think Mr. Lauher's statement says when he left.

16 MS. SCHMELTZER: Yes, it does.

17 JUDGE STEINBERG: In July of 1989.

18 BY MR. HONIG:

19 Q Okay. Now who replaced Mr. Lauher? I'm sorry. It
20 didn't set up a foundation. Was Mr. Lauher replaced when he
21 left?

22 A Not immediately, no.

23 Q Okay. And when was he replaced?

24 A That position remained vacant for some time. And
25 there was an acting general manager appointed later that year.

1 I'm not for sure exactly when that took place. Probably the
2 fall of that year.

3 Q And who was that person?

4 A His name was Bob Thompson.

5 Q Now in between when Mr. Lauher is, left the station
6 and when Mr. Thompson became acting general manager, who
7 fulfilled the functions of, that Mr. Lauher had previously
8 fulfilled?

9 A Reverend Devantier would have acted as general
10 manager. I would have acted as operations manager which I was
11 at the time fulfilling certain duties as well.

12 Q Now during that time whose responsibility would EEO
13 compliance have, have been, yours or Reverend Devantier's?

14 MS. SCHMELTZER: During what period of time?

15 MR. HONIG: Between when Mr. Lauher left and then
16 Mr. Thompson came on board.

17 WITNESS: Well, it would have been both of our
18 responsibilities.

19 MR. HONIG: Well, then can you explain how it came
20 to pass that the EEO forms weren't consistently used? In
21 other words, how did it -- something fell through the cracks.
22 Can you tell me how that happened?

23 MS. SCHMELTZER: You haven't established what EEO
24 forms weren't consistently used.

25 MR. HONIG: It's the forms that he, that he just,

1 that he speaks of in paragraph 21 of his testimony.

2 JUDGE STEINBERG: Twenty-two.

3 MR. HONIG: With attachment 13.

4 JUDGE STEINBERG: Oh, I -- okay. I, I stand
5 corrected. Well, yeah. Do you want to look at attachment 13?

6 WITNESS: Sure.

7 JUDGE STEINBERG: And take a look at what forms you
8 were talking about? The question is what caused these forms
9 not to be consistently used? Is that correct, Mr. Honig?

10 MR. HONIG: That, that's right.

11 JUDGE STEINBERG: Thank you.

12 MR. HONIG: Starting to lose it.

13 WITNESS: Well, I don't know if anyone was hired or
14 not during that time for one thing.

15 MR. HONIG: Well, let's look. Tab 6.

16 JUDGE STEINBERG: Well, the, the thing is the
17 statement says paragraph 22. Because of the turnover, because
18 the turnover in management, managerial personnel in the summer
19 of 1989, the EEO forms were not consistently used during the
20 remainder of that year. That implies that they were used
21 sometimes and they weren't used sometimes. Now Mr. Honig is
22 asking you to explain why. And now you, now you said you
23 don't know if anybody was hired. So that would imply that
24 they weren't used at all because nobody was hired.

25 MR. HONIG: This might refresh the witness's